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Amendment No. 2 to SB1811

Graves

Signature of Sponsor

AMEND Senate Bill No. 1811

House Bill No. 1920*

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 9, Chapter 4, Part 53, is amended by adding the following language as a new, appropriately designated section:

§ 9-4-53__.

(a) Notwithstanding the provisions of any law to the contrary,

IF, after July 1, 1998, a locality is deemed by the state of Tennessee to be a municipality for purposes of distributing grants or state-shared taxes; **AND**

IF, thereafter the locality, acting in good faith and under color of law and for municipal purposes, receives and expends or obligates grants or state-shared taxes; **AND**

IF thereafter it is judicially determined that the locality was not incorporated in accordance with the requirements of law and, therefore, is not a municipality; **THEN**

Neither the locality nor any person who acted on behalf of the locality is required to return or repay such grants or state-shared taxes; however, subject to the provisions of Section 2(c), any portion of such grants or state-shared taxes, that remains unexpended and unobligated, shall become assets of the county.

(b) As used in subsection (a), the phrase "*the locality, acting in good faith and under color of law and for municipal purposes, ...expends*" shall include, but not be limited to, reimbursement paid from grants or state-shared taxes for documented, reasonable expenses of municipal incorporation that were paid out-

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of-pocket by one or more residents acting on behalf of the locality and its incorporation.

SECTION 2. Tennessee Code Annotated, Title 67, Chapter 5, Part 1, is amended by adding the following language as a new, appropriately designated section:

§ 67-5-1__.

(a) Notwithstanding any provisions of Title 6 or any other law to the contrary,

IF, after July 1, 1998, a locality is deemed by the state of Tennessee to be a municipality for purposes of distributing grants or state-shared taxes; **AND**

IF thereafter the locality, acting in good faith and under color of law and for municipal purposes, collects and expends or obligates municipal property tax revenues; **AND**

IF thereafter it is judicially determined that the locality was not incorporated in accordance with the requirements of law and, therefore, is not a municipality; **THEN**

Neither the locality nor any person who acted on behalf of the locality is required to return or repay such municipal property tax revenues; however, any portion of such municipal property tax revenues, that remains unexpended and unobligated, shall be returned to the municipal property taxpayers on a pro rata basis.

(b) As used in subsection (a), the phrase "*the locality, acting in good faith and under color of law and for municipal purposes, ...expends*" shall include, but

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not be limited to, reimbursement paid from municipal property tax revenues for documented, reasonable expenses of municipal incorporation that were paid out-of-pocket by one or more residents acting on behalf of the locality and its incorporation.

(c) Notwithstanding the provisions of any law to the contrary,

IF grants, state-shared taxes and municipal property tax revenues were co-mingled by the locality, **THEN**

For purposes of Sections 1(a) and 2(a) of this act, there shall be a rebuttable presumption that the locality expended or obligated all such grants and state-shared taxes before it expended or obligated any such municipal property tax revenues.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming law, the public welfare requiring it.